

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY JANUARY 25, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 674

Introduced by Assembly Member Salas

February 25, 2009

An act to amend Section 1170.9 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 674, as amended, Salas. Criminal procedure: veterans.

Existing law provides that if a person is convicted of a criminal offense and alleges that he or she committed the ~~offenses~~ *offense* as a result of post-traumatic stress disorder, substance abuse, or psychological problems stemming from service in combat in the United States military, the court shall hold a hearing prior to sentencing to make a determination about the allegation. If the court finds that the defendant's crime was committed as a result of one of those factors related to serving in combat, and the court places the person on probation, existing law authorizes the court to place the person into a treatment program, as specified.

This bill would instead, if the defendant alleges that ~~her~~ *he* or she committed the offense as a result of sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems stemming from military service in the United States military, require the court to make a determination as to whether a defendant was, or currently is, a member of the United States military, and would authorize the court to request through the use of existing resources an

assessment of whether the defendant may be suffering from *any of* those disorders. The bill would eliminate the requirement that the offense be committed as a result of problems stemming from service in a combat theater.

Existing law provides that if a referral for treatment is made by the court to the county mental health authority pursuant to the above provisions, the county shall be obligated to provide mental health treatment services only to the extent that resources are available for that purpose, as provided.

The bill would provide that a county's obligation to provide mental health treatment services is alternatively contingent upon any resources for the implementation of mental health treatment services being appropriated by the state. The bill would eliminate the requirement that an order be made referring the defendant to a county mental health agency only if the agency agreed to accept responsibility for treatment of the defendant.

The bill would require the court and the assigned treatment program to collaborate with the Department of Veterans Affairs and the United States Veterans Administration to maximize benefits and services.

By imposing additional burdens on local government entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1170.9 of the Penal Code is amended to
2 read:

3 1170.9. (a) In the case of any person convicted of a criminal
4 offense who could otherwise be sentenced to county jail or state
5 prison and who alleges that he or she committed the offense as a
6 result of sexual trauma, traumatic brain injury, post-traumatic stress
7 disorder, substance abuse, or mental health problems stemming

1 from service in the United States military, the court shall, prior to
2 sentencing, make a determination as to whether the defendant was,
3 or currently is, a member of the United States military and may
4 request through the use of existing resources an assessment of
5 whether the defendant may be suffering from sexual trauma,
6 traumatic brain injury, post-traumatic stress disorder, substance
7 abuse, or mental health problems as a result of that service.

8 (b) If the court concludes that a defendant convicted of a
9 criminal offense is a person described in subdivision (a), and if
10 the defendant is otherwise eligible for probation and the court
11 places the defendant on probation, the court may order the
12 defendant into a local, state, federal, or private nonprofit treatment
13 program for a period not to exceed that which the defendant would
14 have served in state prison or county jail, provided the defendant
15 agrees to participate in the program and the court determines that
16 an appropriate treatment program exists.

17 (c) If a referral is made to the county mental health authority,
18 the county shall be obligated to provide mental health treatment
19 services only to the extent that resources are available for that
20 purpose, as described in paragraph (5) of subdivision (b) of Section
21 5600.3 of the Welfare and Institutions Code, *or contingent upon*
22 *any resources for the implementation of mental health treatment*
23 *services being appropriated by the state.* If mental health treatment
24 services are ordered by the court, the county mental health agency
25 shall coordinate appropriate referral of the defendant to the county
26 veterans service officer, as described in paragraph (5) of
27 subdivision (b) of Section 5600.3 of the Welfare and Institutions
28 Code. The county mental health agency shall not be responsible
29 for providing services outside its traditional scope of services.

30 (d) When determining the “needs of the defendant,” for purposes
31 of Section 1202.7, the court shall consider the fact that the
32 defendant is a person described in subdivision (a) in assessing
33 whether the defendant should be placed on probation and ordered
34 into a federal or community-based treatment service program with
35 a demonstrated history of specializing in the treatment of mental
36 health problems, including substance abuse, post-traumatic stress
37 disorder, traumatic brain injury, military sexual trauma, and other
38 related mental health problems.

39 (e) A defendant granted probation under this section and
40 committed to a residential treatment program shall earn sentence

1 credits for the actual time the defendant serves in residential
2 treatment.

3 (f) The court, in making an order under this section to commit
4 a defendant to an established treatment program, shall give
5 preference to a treatment program that has a history of successfully
6 treating veterans who suffer from sexual trauma, traumatic brain
7 injury, post-traumatic stress disorder, substance abuse, or mental
8 health problems as a result of that service, including, but not limited
9 to, programs operated by the United States Department of Defense
10 or the United States Veterans Administration.

11 (g) The court and the assigned treatment program shall
12 collaborate with the Department of Veterans Affairs and the United
13 States Veterans Administration to maximize benefits and services
14 provided to the veteran.

15 SEC. 2. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.